

Internal Revenue Service

CERTIFIED

Department of the Treasury

**TEGE Appeals Programs
300 N. Los Angeles Street
Los Angeles, CA 90012**

Release Number: **201047033**

Release Date: 11/26/10

Date: 11/3/10

Taxpayer Identification Number:



Person to Contact:

Employee ID Number:

Tel:

Fax:

Refer Reply to:

AP:LA:EMW

In Re:

Tax Years:

UIL Index:

501.03-00

501.36-00

Dear

This is a final adverse determination as to your exempt status under section 501(a) as an organization described under section 501(c)(3) of the Internal Revenue Code. Our adverse determination was made for the following reason(s):

You failed to establish that you have operated exclusively for educational, charitable, or other exempt purposes as required by section 501(c)(3) of the Internal Revenue Code. You extensively commingled your income, expenditures, and assets with those of your founder to an impermissible extent. You failed to demonstrate that during 2003, 2004, and 2005 that you conducted activities furthering exempt purposes. You failed to adhere to the conditions of your exemption as set forth in our letter of July 2, 2001 based on your application that you annually file Form 990-PF, Return of Private Foundation, or that you maintain records to show that your expenditures were only for exempt purposes. Moreover, your operations more than insubstantially furthered the private interests of your founder in contravention of Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii) and other interests inconsistent with exemption as an organization described in section 501(c)(3).

Contributions to your organization are not deductible pursuant to section 170 of the Internal Revenue Code. As a corporation that is not exempt from Federal income taxes, you are required to file corporate income tax returns (Form 1120) for the years shown above. In addition to the filing of Forms 1120, although your status as an exempt organization is revoked, you are also required to continue to file Form 990-PF, Return of Private Foundation, since your status as a private foundation has not been terminated pursuant to section 507. See Internal Revenue Code section 509(b).

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed before the 91st (ninety-first) day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

You also have the right to contact the Office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778, and ask for Taxpayer Advocate assistance.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals procedures, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, or extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate, can however, see that a tax matter, that may not have been resolved through normal channels, gets prompt and proper handling.

We will notify the appropriate State officials of this final adverse determination of your exempt status, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Karen A. Skinder
Appeals Team Manager

cc:



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE:EO Examinations
300 N. Los Angeles St. MS. 7300
Los Angeles, CA 90012

March 22, 2010

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing by pt

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended

ISSUE:

Has the _____ met the requirements to qualify for tax exempt status under 501(c)(3) of the Internal Revenue Code?

FACTS:

Background of AMA

(EIN: _____) was incorporated as a _____ nonprofit corporation on September 20, _____ signed the Articles of Incorporation as the incorporator. The Articles of Incorporation includes the following sections:

Section II

- A. *This corporation is a nonprofit PUBLIC BENEFIT CORPORATION and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes.*
- B. *The special purpose of this corporation is to provide personal computers to low-income families or students.*

Section IV

- A. *This corporation is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3), Internal Revenue Code.*
- B. *No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.*

Section V

The property of this corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under Section 501(c)(3), Internal Revenue Code.

_____ corporate status has been suspended by the State of _____ since 20 _____. The corporate status is still suspended. According to _____ it was because _____ did not pay the annual fee to the State.

In May 20_____, _____ applied for recognition as a tax-exempt organization under Code 501(c)(3). _____ signed the application form 1023. The specific purpose of _____ stated _____

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended

on the Form 1023, was to provide personal computers to low income families or students. The sources of financial support were stated as donations from companies that manufacture computers and related equipment and software. The organization's fund raising program was stated as contacting large computer companies for cash donations. The organization's governing body includes the following names:

President
Vice President
Secretary
Treasurer

They are husband, wife, son, and daughter.

The Service issued a determination letter 1076 to recognize the as an exempt organization on July 20.

Minutes of the Annual Meeting of the Board of Directors

The board of directors of held their annual meeting on Sep. 20 All four directors, and attended the meeting and the following issues were discussed in the meeting:

- Elected officers: In addition the existing four officers, was elected as Vice President.
- Principal office location: is designated and fixed as the new address.

Activities

According to the conversation with rented an office in the city of and obtained two computers from (son's computer store) in 2003. It conducted scratch cards fundraising program and received \$ to \$ during that year. There were no activities in 20 bought more computers from in 20 but it was inactive until 20 started the business to provide a computer training program and a computer repair school to low income people for free in 2006.

Website:

website address is The website was created in 20 The copy of the print out from its website was sent to for confirmation, no response was received. The home page states that is a 501(c) non-profit organization that promotes individual advancement and learning through the use of technology. The home page

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Year/Period Ended	

has the following six tabs:

- Programs
- Who we are
- Donate
- Special events
- Contact us
- News

Under the tab Programs, the three programs are stated as follows:

Technology Learning Centers

At we have created a unique technology-oriented learning center, geared towards developing the technical potential of all participants. We see technology as the essence of the human experience-it shapes the future. It is the tool that connects our human experience to life itself a core discipline for developing human advancement. Our programs provide life-changing opportunities to inner-city school children and adults with limited English language proficiency, where the harsh conditions of economic disadvantage create barriers to technological achievement and to reaching their full potential.

Technology Classes

We offer a full range of technology programs where students can experience, explore and develop their own creativity in a safe and supportive technology environment. Technology classes provide learners from different elementary schools, hands-on activities in the ways how technology is used in the real world. Each class is approximately hours of instruction. After-school and weekend programs provide learners from all walks of life hands-on activities in technology advancement. Services for teachers, families and community allow both to participate in technology workshops and classes that help assist students with learning.

Fundraising Scratch Cards

Promote technology in the community by participating in our fundraising event. Your assistance will bring computers and technology to the community. is a 50 (C) non-profit organization. Each individual will receive % of each fundraising cards. Sponsor organizations, schools and churches will receive an option of a computer with printer (50 cards = (1) one computer and printer or % of total cards cash donation).

The Card Rewards System features the following:

- Each individual fundraiser will receive % of each scratch card.
- 50 Cards = computer and printer (includes hours of basic training), or % cash value.
- 100 Cards = Scanner, or % cash value.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended

- 250 Cards = Digital Camera, or % cash value.
- 400 Cards = Family (up to 6 members) package for one full year admission to Disneyland, or % cash value.

Under the tab of Who we are, it states as follows:

offers opportunities for learners from all ages to experience the magic of technology, in a safe and supportive environment. We believe that technology is vital for personal and professional development and they connect the individual to their community and to the larger world. Our philosophy is that by validating the creative impulses and uniqueness of each student, we provide a bridge between the technical experience and the development of the whole individual and increased academic achievement.

responds to a vital need for individuals living in the and local communities. Throughout our history, we have been a bright beacon for the hundreds of people who live in this urban setting. Our programs have produced results, by increasing community awareness and supporting individual achievement through the use of technology and the internet.

Under the tab of Donate, it states as follows:

Help change lives. On behalf of the hundreds of learners we serve, please consider becoming a sponsor or volunteer of Your annual gift of just \$ will fund one learner through a full term of technology classes at our technology learning center. \$ will support a learner through an entire year of technology programs.

Larger gifts will help cover the costs for even greater numbers of learners who will receive the priceless gift of knowledge at

is undergoing a \$ Capital Campaign to expand our learning center and programs.

To make a donation, please print out a donation form or call us at (626) 858-2015 for more information. Enterprises is a 501(c)(3) non-profit organization. Your donation is tax deductible to the extent allowed by law.

Returns:

filed a final return Form 990-PF for 2003 to terminate its exempt status. reported no financial transactions on the Form 990-PF. signed the Form 990-PF as an owner. During the examination, said the filed Form 990-PF for 20 was incorrect. His attorney prepared the Form and he signed without acknowledging.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer (EIN)		Year/Period Ended

reported a loss on under Schedule C of his individual tax return 1040 for year 20. According to the conversation with , he reported under Schedule C of his 1040 because he did not know which tax form he should use since was suspended by the State. According to the income of was exclusively from his gambling winnings and most expenses were for his personal expenses, such as, the reported insurance expenses were for his personal auto insurance and his home insurance, the utility expenses were for his residence utility bills, and etc.

On December 20 several months after this examination was initiated, filed his individual tax returns for the years 20 and 20 and he reported a loss on AMA under Schedule C for both years. The Schedule C information is as follows:

	20	20	20
<u>Income</u>			
Gross receipts or sales	\$	\$	\$
<u>Expenses</u>			
Advertising		\$	\$
Commissions and fees			\$
Insurance	\$	\$	\$
Legal and professional services	\$	\$	\$
Office expense	\$	\$	\$
Rent or lease	\$	\$	\$
Repairs and maintenance	\$		
Supplies	\$	\$	
Travel, meals, and entertainment	\$	\$	\$
Utilities	\$	\$	\$
Other expenses	\$	\$	
Total Expenses	\$	\$	\$
Tentative loss	\$	\$	\$

Bank statements:

According to the conversation with he commingled funds from with his personal funds and did not keep a separate bank account for AMA. According to the summons from the has a checking account. The summary of bank account transactions for 2004 through 2005 are as follows:

1/ 20	\$	\$
2/ 20	\$	\$
3/ /20	\$	\$

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended

4/ /20	\$	\$
5/ /20	\$	\$
6/ /20	\$	\$
7/ /20	\$	\$
8/ /20	\$	\$
9/ /20	\$	\$
10/ /20	\$	\$
11/ /20	\$	\$
12/ /20	\$	\$
Total 20	\$	\$

1/ 20	\$	\$
2/ 20	\$	\$
3/ 20	\$	\$
4/ 20	\$	\$
5/ 20	\$	\$
6/ 20	\$	\$
7/ 20	\$	\$
8/ 20	\$	\$
9/ 20	\$	\$
10/ /20	\$	\$
11/ /20	\$	\$
12/ /20	\$	\$
Total 20	\$	\$

A review of the detailed transactions indicated that most deposits from February through April were for \$ made by individuals. According to interviews with the individuals who paid \$ to the , the payments were the fee charged by for preparing their tax returns and instructed them to write on the money order. The \$ deposited in November 20 was from a scratch card fundraising event in . The Fundraising agreement between and included the following terms:

1. Your school will perform a week fundraising event starting on October 20. The fundraising event will end on or before Nov 20 in which all funds or unused will be turned over to .
2. will provide 350 scratch-cards to . Each scratch-card is worth \$ (US. dollars). Any unused scratch-card must be returned in its original condition. If any card is returned used, damaged, altered or missing, St. will pay the \$ value associated with the card towards the fundraising event. The scratch-cards cannot be duplicated or modified without permission from .

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended

3. Based on the funds received from the completed scratch-card, will provide 1 classroom computer for 10 scratch-cards. Furthermore, for every computers will receive an 8-port switch and a laser printer. Please see specifications of the computers, printers and network equipment (attached).
4. The principal (or authorized employee/personnel signing below) is responsible for collecting and handing over funds (cash or check) collected from the scratch-cards completed to Enterprises on or before the fundraising event end date.

The agreement was signed by _____ and _____ the Principal of _____ on October 20 _____

The _____ raised \$ _____ and paid it to _____ on November 20 _____

The list of checks issued from _____ bank account is as follows:

<u>CK#</u>	<u>Date:</u>	<u>Pay to:</u>	<u>Amount</u>
	5/ /20		\$
	5/ /20		\$
	6/ /20		\$
	6/ /20		\$
	8/ 200		\$
	9/ /20		\$
Total			\$

<u>CK#</u>	<u>Date:</u>	<u>Pay to:</u>	<u>Amount</u>
	2/ /20		\$
	4/ /20		\$
	5/ 200		\$
	5/ /20		\$
	5/ /20		\$
	5/ /20		\$
	5/ /20		\$
	6/ 200		\$
	6/ /20		\$
	6/ /20		\$
	6/ /20		\$
	6/ /20		\$
	7/ 200		\$
	7/ 200		\$
	7/ /20		\$
	7/ /20		\$
	7/ /20		\$
	7/ /20		\$

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer AMA Enterprise (EIN 95-4830799)		Year/Period Ended 12/31/2004 & 12/31/2005

7/ '20	\$
8/ '00	\$
8/ '00	\$
8/ '00	\$
8/ '20	\$
9/ '00	\$
11/ '20	\$
11/ '00	\$
11/ '20	\$
11/ '20	\$
11/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
12/ '20	\$
Total	\$

A review of the detailed transactions indicated that most of the checks issued were for personal expenses. Copies of the bank statements, canceled checks and a transaction summary workpaper were sent to _____ in order to request the explanation of the business purpose for the above transactions for the years 20____ through 20____ failed to respond.

LAW:

Section 501(a) of the Internal Revenue Code provides that an organization described in section 501(c)(3) is exempt from income tax. Section 501(c)(3) of the Code exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inure to the benefit of any private shareholder or individual. The term charitable includes relief of the poor and distressed. Section 1.501(c)(3)-1(d)(2), Income Tax Regulations.

The term educational includes (a) instruction or training of the individual for the purpose of improving or developing his capabilities and (b) instruction of the public on subjects useful to the individual and beneficial to the community. Treas. Reg. § 1.501(c)(3)-1(d)(3). In other words, the two components of education are public education and individual training.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended

Section 1.501(c)(3)-1(a)(1) of the regulations provides that, in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279 (1945).

Educational purposes include instruction or training of the individual for the purpose of improving or developing his capabilities and instruction of the public on useful and beneficial subjects. Treas. Reg. §1.501(c)(3)-1(d)(3). In Better Business Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purposes, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that the trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

Regulation section 1.501(c)(3)-1(d)(1)(ii) provides an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

An organization must establish that it serves a public rather than a private interest and "that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests." Treas. Reg. §1.501(c)(3)-1(d)(1)(ii). Prohibited private interests include those of unrelated third parties as well as insiders. Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978); American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989). Private benefits include an "advantage; profit; fruit; privilege; gain; [or] interest" Retired Teachers Legal Fund v. Commissioner, 78 T.C. 280,286 (1982).

An organization formed to educate people in Hawaii in the theory and practice of "est" was determined by the Tax Court to a part of a "franchise system which is operated for private benefit," and, therefore, should not be recognized as exempt under section 501(c)(3) of the Code. est of Hawaii v. Commissioner, 71 T.C. 1067, 1080 (1979). Although the organization

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended

was not formally controlled by the same individuals who controlled the for-profit entity that owned the license to the "est" body of knowledge, publications, and methods, the for-profit entity exerted considerable control over the applicant's activities by setting pricing, the number and frequency of different kinds of seminars and training, and providing the trainers and management personnel who are responsible to it in addition to setting price for the training. The court stated that the fact that the organization's rights were dependent upon its tax-exempt status showed the likelihood that the for-profit entities were trading on that status. The question for the court was not whether the payments made to the for-profit were excessive, but whether the for-profit entity benefited substantially from the operation of the organization. The court determined that there was a substantial private benefit because the organization "was simply the instrument to subsidize the for-profit corporations and not vice versa and had no life independent of those corporations."

Internal Revenue Code section 501(c)(3) specifies that an exempt organization described therein is one in which "no part of the net of earnings inures to the benefit of any private shareholder or individual" The words "private shareholder or individual" in section 501 to refer to persons having a personal and private interest in the activities of the organization. Treas. Reg. Section 1.501(a)-1(c). The inurement prohibition provision "is designed to prevent the siphoning of charitable receipts to insiders of the charity..." United Cancer Council v. Commissioner, 165 F.3d 1173 (7th Cir. 1999). Reasonable compensation does not constitute inurement. Birmingham Business College v. Commissioner, 276 F.2d 476, 480 (5th Cir. 1960).

Where an organization provided a source of credit to companies of which a private shareholder was either an employee or an owner, the court found that a portion of the organization's net earnings inured to the benefit of that private shareholder. Easter House v. United States, 12 Cl. Ct. 476 (1987). That such loans were made showed that the companies controlled by the private shareholder had a "source of loan credit" in the organization.

An organization does not serve a public rather than a private interest within the meaning of Reg. 1.501(c)(3)-1(d)(1) if any of its assets or earnings inure to the benefit of any insiders (or disqualified persons). Treas. Reg. §1.501(c)(3)-1 (d)(1)(ii). Inurement is any transfer of charitable assets to the organization's insiders for which the organization does not receive adequate consideration. Inurement can take many forms.

Effective date of revocation

An organization may ordinarily rely on a favorable determination letter received from the Internal Revenue Service. Treas. Reg. §1.501(a)-1(a) (2); Rev. Proc. 2003-4, §14.01 (cross-referencing §13.01 et seq.), 2003-1 C.B. 123. An organization may not rely on a favorable determination letter, however, if the organization omitted or misstated a material fact in its application or in supporting documents. In addition, an organization may not rely on a favorable determination if there is a material change, inconsistent with exemption, in the organization's character, purposes, or methods of operation after the determination letter is issued. Treas.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended

Reg. §601.201(n)(3)(ii); Rev. Proc. 90-27, §13.02, 1990-1 C.B. 514.

The Commissioner may revoke a favorable determination letter for good cause. Treas. Reg. § 1.501(a)-1(a)(2). Revocation of a determination letter may be retroactive if the organization omitted or misstated a material fact or operated in a manner materially different from that originally represented. Treas. Reg. §601.201(n)(6)(i), §14.01; Rev. Proc. 2003-4, §14.01 (cross-referencing §13.01 et seq.).

TAXPAYER'S POSITION:

disagrees with the Government's position as set forth in its letter of notice to appeal dated April 20. Per the letter, states that with the exceptions of a few discrepancies, the facts as set forth in the determination letter are substantially correct. However, the most glaring error is the statement that the exempt organization had no activity in 2004. The exempt organization maintains that it has had continuous activity since its inception and has provided computer training and technology training to disadvantaged students in the community.

The exempt organization concedes that its record keeping and reporting, leaves a great deal to be desired which was the result of poor representation advise, and confusion on the part of principal of the exempt organization, created when he was given conflicting instructions by the and the Internal Revenue Service as to how he should file his returns.

Despite the failures in record keeping and reporting, the exempt organization has done considerable charitable work. Accordingly, the exempt organization and its principal, seek to amend and revise both the returns of the exempt organization as well as the individual 1040 returns.

The exempt organization concedes that the law, as stated in the determination letter is substantially correct and requests that the matter go to appeals.

GOVERNMENT'S POSITION:

The Service contends that has not operated exclusively for exempt purposes as described within the meaning of Internal Revenue Code section 501(c)(3). activities were operated for the purpose of serving a private benefit rather than public interest. Its assets inured to the benefit of its insiders.

stated that it is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3), Internal Revenue Code. It stated that its special purpose is to provide personal computers to low-income families or students.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended

On the contrary, [redacted] is operating as a tax shelter for [redacted] to conceal his personal income and to avoid his income tax liabilities. [redacted] has been active in the preparation of Federal tax returns. [redacted] received \$ [redacted] for each return he prepared. A review of [redacted] bank statements indicated that most of the deposits consisted of money orders of \$ [redacted] each. According to the interview with the payees, the money was the fee charged by [redacted] for preparing their tax returns. Most checks issued by [redacted] were for [redacted] personal use. During the examination, [redacted] claimed that he commingled funds from [redacted] with his personal funds and did not keep a separate bank account for [redacted]. After we discovered the [redacted] bank account, we requested an explanation of the business purpose for the deposits into the account and the checks issued by [redacted] but [redacted] did not respond to our request.

[redacted] not only used [redacted] to conceal his personal income from the tax return preparation, but also reported a net loss on [redacted] under Schedule C of his individual tax returns to offset his personal income on the 1040. During the examination, we informed [redacted] that he should not report [redacted] under Schedule C of his individual tax return 1040, but [redacted] still filed his tax return 1040 for years 20 [redacted] and 20 [redacted] in December 20 [redacted] and reported a net loss from [redacted] under Schedule C.

The organization's 20 [redacted] 990 was filed as a final return and the organization checked that the organization is terminated. There is no evidence that the organization conducted any activities during 20 [redacted]. The only activity identified during the 20 [redacted] year was the preparation of Federal tax returns from [redacted] Schedule C activity. Upon discussion with the POA, [redacted] on October 16, 2008, it was explained that [redacted] checked the termination box on the return because he was confused since the Franchise Tax Board no longer recognized the organization as exempt. [redacted] stated that the organization was and is currently active. The organization provides individualized training to disadvantaged kids. Documentation was requested from [redacted] to support this claim, however, no documentation or evidence was provided.

CONCLUSION:

Therefore, [redacted] does not qualify for exemption from Federal Income Tax under section 501(c)(3) because it did not engage primarily in activities that accomplish an exempt purpose, it was operated for the purpose of serving a private benefit rather than public interest, and a major part of the net earnings of [redacted] inured to the benefit of [redacted]. Treas. Reg. § 601.201(n)(3)(ii) states that an organization may not rely on a favorable determination if there is a material change, inconsistent with exemption, in the organization's character, purposes, or methods of operation after the determination letter is issued. Accordingly, it is determined that [redacted] is not an organization described in section 501(c)(3), and is not exempt from income tax under section 501, effective January 1, 20 [redacted]. [redacted] is liable to file corporate income tax return 990-PF as a taxable private foundation and Form 1120.